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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/597,144

07/15/2008

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EXAMINER

TILLMAN, JR, REGINALD S

ART UNIT

PAPER NUMBER

3641

MAIL DATE

DELIVERY MODE

12/15/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/597,144	GUSTAFSSON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	REGINALD TILLMAN, JR	3641	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 April 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 26-51 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 26-29, 31-34 and 36-51 is/are rejected.
- 8) ☒ Claim(s) 35 is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 26, 31-34, and 36-50 rejected under 35 U.S.C. 103(a) as being unpatentable over Allred (US 3,565,009) in view of Bryan et al. (US 5,229,542), hereinafter ("Bryan").

**Re claims 26, 36-44, and 48-50**, Allred discloses a warhead having a first part with an explosive section; a casing; and a plurality of projectiles; a second part with a second explosive section and a control element (inherent) configured to control detonation and target selection, but not that the control element permits modification of the desired effect of the warhead. Bryan teaches a warhead having a control element configured for selective modification of the desired effect of the warhead to allow for effective destruction of a chosen target (abstract). At the time the invention was made it would have been obvious for one skilled in the art to modify the warhead to have the control element taught by Bryan. The motivation would be to allow for effective destruction of a chosen target.

**Re claims 31-34**, Allred applies as recited. Each section is clearly capable of being fired at different times. Additionally, it has been repeatedly held that the

modifying the sequence of events required only routine skill in the art. *Ex parte Rubin*, 128 USPQ 440 (Bd. App. 1959). See also MPEP 2144.

**Re claims 45-47**, Wireless communication is commonly known in the art because it allows for communication over long distances. At the time the invention was made it would have been obvious to modify the system as shown above to communicate wirelessly. The motivation would be to allow for communication over long distances.

3. Claim 27 rejected under 35 U.S.C. 103(a) as being unpatentable over Allred in view of Bryan further in view of Wilhelm (US 4,655,139).

**Re claim 27**, Cole teaches a warhead having a processor (86) to control the detonators. At the time the invention was made it would have been obvious for one skilled in the art to modify the control element to have a processor. The motivation would be to control detonation.

4. Claims 28, 29, and 51 rejected under 35 U.S.C. 103(a) as being unpatentable over Allred in view of Bryan further in view of Grandgent et al. (US 2,944,763), hereinafter ("Grandgent").

**Re claims 28, 29, and 51**, Grandgent teaches a warhead receiving signals from a user in a control station to allow remote operation of the warhead. At the time the invention was made it would have been obvious for one skilled in the art to modify the

control element as shown above to be controlled by a user in a control station. The motivation would be to allow for remote operation of the warhead.

### ***Allowable Subject Matter***

5. Claim 35 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose, nor is it obvious (either alone or in combination), the warhead of claim 26 including wherein the detonation of the second explosive section results in an acceleration of the projectiles in a direction essentially parallel to the longitudinal axis.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REGINALD TILLMAN, JR whose telephone number is (571)270-7010. The examiner can normally be reached on Monday to Friday 730 to 400.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bret Hayes/  
Primary Examiner, Art Unit 3641

/R. T./  
Examiner, Art Unit 3641

12-13-11